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6 Attorneys for Defendants
 7 DINCEL LAW GROUP APC, KIM O. DINCEL, an
 individual AND W. JOHN LO, an individual

8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA

10 JAMES TRULEY, an individual,
 11
 12 Plaintiff,

13 v.

14 SHLOMO RECHNITZ, individually and dba
 15 ROCKPORT HEALTHCARE SERVICES,
 16 and dba ALTA VISTA HEALTHCARE &
 17 WELLNESS CENTER; ROCKPORT
 18 ADMINISTRATIVE SERVICES, LLC, a
 California limited liability company; DINCEL
 19 LAW GROUP, an entity of unknown type;
 KIM O. DINCEL, an individual; W. JOHN
 20 LO, an individual; RIVERSIDE
 21 HEALTHCARE & WELLNESS CENTRE,
 LLC, a California limited liability company;
 Tim G. Doe, an individual, Cecilia M. Doe, an
 individual, and DOES 1 to 50, inclusive,

22 Defendants.

Case No. 5:15-cv-00715-SJO-SP

**AMENDED DECLARATION OF
 CHRISTOPHER R. MEZZETTI IN
 SUPPORT OF DEFENDANTS DINCEL
 LAW GROUP, APC, KIM O. DINCEL
 AND W. JOHN LO'S MOTION TO
 COMPEL RESPONSES TO SPECIALLY
 PREPARED INTERROGATORIES AND
 REQUEST FOR PRODUCTION OF
 DOCUMENTS FROM PLAINTIFF AND
 REQUEST FOR SANCTIONS PURSUANT
 TO FED. R. CIV. P. 37**

**Date: February 16, 2016
 Time: 10:00 a.m.
 Ctrm: 4, 3rd Fl.**

Magistrate Judge Pym

Complaint filed: April 13, 2015

Trial Date: May 3, 2016

26 I, Christopher R. Mezzetti, declare and state as follows:

27 1. I am an attorney duly admitted to practice before all courts of the State of
 28 California and the United States District Court – Central District of California, and am an

1 attorney in the law firm of Ropers, Majeski, Kohn & Bentley, attorneys of record in this matter
2 for Defendants Dincel Law Group, APC, Kim O. Dincel, and W. John Lo (the “Dincel
3 Defendants”). The following statements are based upon my personal knowledge of this matter
4 and if called upon to testify, I could and would competently testify to the matters asserted herein.

5 2. My office served Plaintiff JAMES TRULEY with Specially Prepared
6 Interrogatories, Set One and Request for Production of Documents, Set One on October 28, 2015.
7 Attached hereto as Exhibit “A” are true and correct copies of the proofs of service for those
8 discovery requests.

9 3. Responses to The Dincel Defendants Specially Prepared Interrogatories, Set One
10 and Request for Production of Documents, Set One were due no later than December 2, 2015.
11 Plaintiff did not serve responses by that date. In fact, despite the Dincel Defendants’ repeated
12 attempts to meet and confer on the subject, Plaintiff still has yet to serve responses of any kind.

13 4. I sent meet and confer correspondence to Plaintiff’s counsel on December 15,
14 2015. Plaintiff’s counsel did not respond. Again on December 21, 2015, I attempted to engage in
15 meet and confer efforts via email. On December 22, 2015, Plaintiff’s counsel that Plaintiff would
16 provide responses by December 28, 2015. Plaintiff did not serve responses by that date. On
17 December 29, 2015, I again inquired, via email, as to the status of Plaintiff’s discovery responses.
18 Again, Plaintiff did not respond. Attached hereto as Exhibit “B” are true and correct copies of the
19 above-described email exchanges between myself and Plaintiff’s counsel.

20 5. On January 11, 2016, I sent Plaintiff’s counsel a detailed meet and confer letter,
21 addressing the lack of discovery responses, as well as other outstanding issues. In that letter, I
22 requested that Plaintiff serve responses to the Dincel Defendants’ discovery requests no later than
23 January 15, 2016. Again, Plaintiff failed to respond. Attached hereto as Exhibit “C” is a true and
24 correct copy of my January 11, 2016, meet and confer letter to Plaintiff’s counsel.¹

25 6. Fed. R. Civ. P., Rule 26 initial disclosures were due in this case on July 30, 2015.
26 Plaintiff did not timely serve his disclosures. Despite repeated meet and confer efforts, and
27

28 ¹ A portion of the letter has been redacted as it contains confidential settlement discussions.

1 representations that the disclosure was “in the mail”, Plaintiff’s disclosure did not arrive until
2 September 20, 2015. Attached hereto as Exhibit “D” are true and correct copies of meet and
3 confer emails between Plaintiff’s counsel and counsel for Defendants regarding Plaintiff’s failure
4 to serve Fed. R. Civ. P., Rule 26 disclosures.

5 7. Upon review of Plaintiff’s extremely delayed initial disclosure, it was clear that it
6 was plainly deficient. Plaintiff failed to provide any information, other than what was contained
7 in Plaintiff’s Complaint. Counsel for co-defendants engaged Plaintiff in further meet and confer
8 efforts, and Plaintiff agreed to produce a code compliant disclosure in late October. Despite
9 repeated requests therefor, Plaintiff did not produce, and has yet to produce an
10 amended/supplemental initial disclosure. Attached hereto as Exhibit “E” are true and correct
11 copies of meet and confer emails between Plaintiff’s counsel and counsel for Defendants
12 regarding Plaintiff’s deficient Fed. R. Civ. P., Rule 26 disclosures.

13 8. On December 31, 2015, the Dincel Defendants served Plaintiff with a notice of
14 deposition for January 20, 2016. Due to Plaintiff’s pattern of failing to comply with the Federal
15 Rules of Civil Procedure, my office repeatedly reached out to Plaintiff’s counsel to determine if,
16 in fact, Plaintiff would appear for his deposition on January 20, 2016. Despite these repeated
17 requests, and Plaintiff’s counsel’s knowledge that counsel for the Dincel Defendants would have
18 to travel to Los Angeles from the San Francisco area to attend the deposition, Plaintiff’s counsel
19 did not respond or confirm the deposition. Attached hereto as Exhibit “F” are true and correct
20 copies of emails sent by my office to Plaintiff’s counsel in an attempt to confirm Plaintiff’s
21 deposition.

22 9. On January 19, 2016, the day before Plaintiff’s deposition, Plaintiff sent the Dincel
23 Defendants an untimely objection to their deposition notice. Attached hereto as Exhibit “G” is a
24 true and correct copy of Plaintiff’s Objection to Notice of Deposition.

25 10. Counsel for co-Defendants and I immediately met and conferred with Plaintiff’s
26 counsel on the untimely, improper objections. Counsel for co-Defendants reminded Plaintiff’s
27 counsel that Plaintiff had previously agreed to appear on January 20, 2016, for his deposition. I
28 explained to Plaintiff’s counsel that there is no meet and confer requirement for the setting of

1 depositions under either the Federal Rules of Civil Procedure or the Central District's Local
2 Rules, and that the noticing party was clearly identified in the caption of the Notice of Deposition.
3 Plaintiff's counsel merely asserted that the objections were valid. Though Plaintiff's counsel
4 offered to "meet and confer" via phone call, I have yet to hear from him on the issue. Attached
5 hereto as Exhibit "H" are true and correct copies of the above-described meet and confer emails
6 between myself, counsel for co-Defendants, and Plaintiff's counsel

7 11. Despite my repeated attempts to meet and confer with Plaintiff's counsel, by
8 telephone, email, and letter, Plaintiff's counsel failed to reciprocate my efforts – the most I
9 received was an email promising responses, which went unfulfilled. As such, the Dincel
10 Defendants were unable to complete a Joint Stipulation pursuant to Local Rule 37-2. They are,
11 however, excused from preparing said stipulation pursuant to Local Rule 37-2.4, due to Plaintiff's
12 failure to meet and confer on these issues.

13 12. I have expended approximately 12 hours of time engaging in meet and confer
14 effort and preparing the present motion and its supporting papers. I expect to expend an
15 additional 8 hours reviewing any response to this motion and preparing for and appearing at a
16 hearing on this motion. My hourly rate in this case is \$190. As such, my clients will incur
17 expenses of approximately \$3,800.00 as a result of Plaintiff's failures.

18 I declare under penalty of perjury under the laws of the State of California that the
19 foregoing is true and correct.

20 Executed January 22, 2016, at Redwood City, California.

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22 /s/ Christopher R. Mezzetti
23 CHRISTOPHER R. MEZZETTI
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